

13:32:22

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

FLASH-CONTROL, LLC) Docket No. A 19-CA-1107 ADA
)
vs.) Austin, Texas
)
INTEL CORPORATION) February 14, 2020

TRANSCRIPT OF TELEPHONE CONFERENCE
BEFORE THE HONORABLE ALAN D. ALBRIGHT

APPEARANCES:

For the Plaintiff: Mr. Derek F. Dahlgren
(Telephonically) Devlin Law Firm, LLC
 1526 Gilpin Avenue
 Wilmington, Delaware 19806

For the Defendant: Mr. J. Stephen Ravel
 Kelly, Hart & Hallman, LLP
 303 Colorado Street, Suite 2000
 Austin, Texas 78701

Court Reporter: Ms. Lily Iva Reznik, CRR, RMR
 501 West 5th Street, Suite 4153
 Austin, Texas 78701
 (512)391-8792

Proceedings reported by digital stenography, transcript
produced by computer.

13:32:23 1 THE CLERK: Court calls: A-19-CV-1107,
13:32:27 2 Flash-Control, LLC vs. Intel Corporation, for a telephone
13:32:30 3 scheduling hearing.

13:32:31 4 THE COURT: Good afternoon, everyone. This is
13:32:35 5 Alan Albright. How are y'all today?

13:32:38 6 MR. RAVEL: Good, Judge.

13:32:42 7 MR. DAHLGREN: Doing fine, your Honor.

13:32:44 8 THE COURT: If you could do this. If we could
13:32:46 9 run through and have you state on the record who will be
13:32:48 10 speaking on behalf of the plaintiff, and whether or not
13:32:50 11 you have any clients that are also on the call, and who
13:32:53 12 are they, but then, if either Mr. Ravel or whoever will
13:33:04 13 speak for the defendant but, also, whoever will be talking
13:33:05 14 with respect to the hearing can speak up.

13:33:07 15 MR. DAHLGREN: Your Honor, this is Derek Dahlgren
13:33:09 16 from the Devlin Law Firm. I will be speaking on behalf of
13:33:12 17 plaintiff. There's no one from our client participating
13:33:16 18 on this call.

13:33:16 19 THE COURT: Okay. And for the defendant.

13:33:19 20 MR. RAVEL: Your Honor, Steve Ravel from Kelly
13:33:22 21 Hart in Austin for the defendant. With me is my
13:33:24 22 co-counsel, Jim Wren, my co-counsel, Sonal Mehta, and our
13:33:28 23 client, Lien Dang. I think you met Ms. Mehta and Ms. Dang
13:33:32 24 at the motion to dismiss hearing last October.

13:33:35 25 THE COURT: I did. Okay. And so, I'm happy to

1 hear either -- from either counsel about what we should do
2 here today.

3 MR. DAHLGREN: Sure. This is Derek Dahlgren on
4 behalf of plaintiff.

5 We are the ones who, I guess, requested that
6 there be a modification to the schedule. We found out on
7 January 22nd that the defendant was going to file an early
8 motion for summary judgment. On January 29th, we asked
9 them not to do that. We felt that there were two many
10 kind of fact issues and that wasn't appropriate where
11 we're at at this stage and given the Court's schedule, but
12 put the deadline no later than end of fall discovery,
13 thought it would be appropriate to assert that.

14 Defendants went ahead and proceeded. We had a
15 meet-and-confer before that where they said, take a look
16 at what we filed and then, maybe let's talk and see if we
17 could work something out. So they filed their combined
18 Markman and summary judgment brief. We had a series of
19 meetings but were unable to agree on extension. What we
20 had requested initially was five additional meets for the
21 summary judgment briefing, push everything back five weeks
22 and decouple for Markman.

23 And now, what we actually requested be six weeks
24 because of the amount of time that we spent kind of going
25 back and forth, trying to work this out. We think that,

1 you know, they're separate issues, that it would confuse
2 Markman and that we also, I think, more importantly --
3 this is a critical piece. We tried to work with our
4 expert to come up with our responsive brief and deal with
5 the summary judgment portion of their brief and, also,
6 time for depositions and all that. So we think under the
7 current schedule, which would have our responsive brief
8 due in less than a week, that extension is warranted.

9 THE COURT: And just to be clear, I'm having a
10 slightly hard time hearing you, which is probably our
11 technology or my bad hearing. Let me just make sure that
12 what it is that you're asking for on behalf of the
13 plaintiffs is to push the schedule back for the Markman
14 and the hearing on the summary judgment by six weeks?

15 MR. DAHLGREN: No, your Honor. Sorry. I didn't
16 mean to interrupt, but what we're requesting is that the
17 two be decoupled.

18 THE COURT: Okay.

19 MR. DAHLGREN: The Markman schedule stay as it is
20 and the summary judgment briefing be pushed back six
21 weeks. As you know, discovery and things are pretty much
22 stayed until after Markman. So if you push back Markman
23 and summary judgment, essentially you're giving defendant
24 a stay pending their summary judgment motion. It would
25 move the stay pending summary judgment.

13:36:12 1 THE COURT: Okay. So --

13:36:13 2 MR. DAHLGREN: So I think it's not -- sorry.

13:36:14 3 THE COURT: No, no.

13:36:15 4 So both -- everyone wants to hold the Markman --
13:36:19 5 to hold in place the Markman on April 1st. The question
13:36:23 6 is whether or not we push back the date for the summary
13:36:27 7 judgment hearing, past that date by six weeks to allow the
13:36:31 8 parties to brief it. Is that your -- what you're saying?

13:36:35 9 MR. DAHLGREN: I can't speak for defendant. They
13:36:39 10 proposed two alternatives for a very modest extension to
13:36:45 11 the summary judgment on our briefing schedule that keeps
13:36:47 12 the current Markman and, also, pushing back -- the latest
13:36:50 13 was pushing back both. That's the response to me during
13:36:52 14 our meet-and-confer. And, again, plaintiff's solution is
13:36:56 15 that we would like to keep April 1st Markman date and have
13:36:59 16 summary judgment briefing be on a separate track and be
13:37:03 17 separate from Markman so that the case doesn't slow down;
13:37:06 18 so the case isn't stayed, effectively.

13:37:08 19 THE COURT: Gotcha.

13:37:09 20 MR. DAHLGREN: During the period of time for
13:37:11 21 summary judgment.

13:37:11 22 THE COURT: And have I set a date for the trial?

13:37:17 23 MR. DAHLGREN: Your Honor, I haven't pulled up
13:37:19 24 the schedule. I apologize.

13:37:20 25 THE COURT: No. I apologize. Everyone I ask

13:37:24 1 that question here, everyone --

13:37:27 2 MR. DAHLGREN: I believe it was only scheduled
13:37:28 3 through Markman, but I could very, very well be incorrect.
13:37:33 4 I apologize if I get the date wrong, your Honor. I might
13:37:35 5 be confusing them.

13:37:37 6 MR. RAVEL: Your Honor, it's set for jury trial
13:37:39 7 during the range of February 25th, 2021 to March 18th,
13:37:44 8 2021. And I do have --

13:37:46 9 MR. DAHLGREN: Thank you.

13:37:47 10 MR. RAVEL: -- one big disagreement with Mr.
13:37:49 11 Dahlgren. Is it my turn to talk?

13:37:52 12 THE COURT: Not quite yet. Almost.

13:37:55 13 And so, the reason I care about the trial
13:37:57 14 schedule is, does decoupling the summary judgment hearing
13:38:03 15 from the April 1st date or -- and setting it for whenever,
13:38:10 16 does that interfere at all with anything that would make
13:38:15 17 -- does it interfere in any way with keeping the trial
13:38:17 18 scheduled when it's scheduled?

13:38:21 19 MR. DAHLGREN: Plaintiff's solution to that is,
13:38:23 20 it would not interfere whatsoever.

13:38:24 21 THE COURT: Okay.

13:38:25 22 MR. DAHLGREN: There's already currently a
13:38:26 23 deadline for summary judgment brief till after the end of
13:38:29 24 all discovery, fact and expert. We think that is
13:38:31 25 appropriate here. But we're trying to work with

1 defendants to allow them to have extension brief. But we
2 would need some additional time and we do not want the
3 case stayed. Now, I do think that if you did push back
4 the Markman along with summary judgment, then it would
5 essentially impact the trial date. But we don't think
6 that's necessary. Plaintiffs believe we could go two
7 separate tracks.

8 THE COURT: Well, I'm not planning on pushing
9 back the trial date or the Markman date. So let me hear
10 from Mr. Ravel.

11 MR. RAVEL: Well, Judge, Intel is asking you to
12 push back the Markman date so as to be courteous to the
13 plaintiff. And let me begin by saying it's not a
14 traditional Markman. No claims are being construed.
15 There are two issues and two issues only.

16 THE COURT: Okay.

17 MR. RAVEL: One indefiniteness issue and one
18 written description issue. And as you can hear, the big
19 difference between the parties is whether those should be
20 worked up by Dr. Yi and you, separately or together. And
21 that is the only reason that we have suggested moving the
22 hearing on both of those issues is to give plaintiffs
23 exactly the five-week extension that they want. It would
24 be impossible to give them what they asked for and keep
25 the April 1st date.

13:39:55 1 And we think decoupling is just wrong from a
13:40:01 2 judicial, judicial staff point of view, and from a party's
13:40:05 3 point of view. And I'll start from the bottom of the
13:40:12 4 chart that I sent to Dr. Yi, right before lunch, and that
13:40:18 5 is the offer to give Flash-Control until March 25th to
13:40:25 6 respond to the summary judgment opening claim construction
13:40:29 7 brief that set out our position on indefiniteness and
13:40:33 8 written description on the 5th of February. So it gives
13:40:40 9 them six weeks, exactly what they asked for. It allows
13:40:42 10 the parties to give the Court back the entire day of April
13:40:48 11 1st that we're holding on your schedule and, instead, have
13:40:52 12 the two or three-hour hearing sometime during the week of
13:40:56 13 May 18th.

13:40:59 14 And let me now kind of circle back to Mr.
13:41:04 15 Dahlgren's argument is, they've known since January 15th
13:41:09 16 that we were going to raise indefiniteness. And they've
13:41:12 17 known since our extrinsic evidence disclosure that we were
13:41:16 18 going to raise written description. So we -- even before
13:41:20 19 we filed the motion, we told them -- we tried to meet and
13:41:24 20 confer before the motion was filed to see if we could come
13:41:27 21 up with an extension that was fair to them and not make
13:41:33 22 extra work for the Court.

13:41:34 23 THE COURT: Mr. Ravel, let me ask you this. I
13:41:38 24 don't mean to ask it as a leading question, but I don't
13:41:40 25 know how to do it as a non-leading question.

13:41:44 1 So it sounds to me -- and then, I'll hear from
13:41:48 2 plaintiff's counsel. It sounds to me like this is a
13:41:55 3 unique case where the motion for summary judgment, if
13:41:59 4 briefed correctly, would be like a super Markman hearing,
13:42:03 5 for lack of a better way of putting it, that I can either
13:42:08 6 -- I can address these issues at the Markman, and then,
13:42:13 7 you all will file a motion for summary judgment -- you'll
13:42:17 8 be filing motions for summary judgment, sort of double
13:42:20 9 tracking, but unsure of exactly what I'm going to rule on.
13:42:24 10 Or we could combine it all into one summary judgment
13:42:31 11 hearing that probably would subsume what happens in the
13:42:35 12 Markman, correct?

13:42:36 13 MR. RAVEL: That's exactly right, Judge.

13:42:37 14 And the Markman issue indefiniteness just relates
13:42:42 15 to one claim. And the written description argument -- and
13:42:46 16 it's our position that they're very linked because the
13:42:50 17 specification is read to determine if indefiniteness is
13:42:55 18 avoided. And the specification is studied very carefully
13:43:00 19 to determine if written description is there. That's the
13:43:03 20 linkage.

13:43:04 21 Plus this court links those two things in its
13:43:09 22 invalidity disclosures. It talks about them in the same
13:43:12 23 sentence. So yeah, it's always a bad idea to quibble with
13:43:17 24 the Court, but it would be more like a super motion
13:43:22 25 hearing that would resolve either one claim or all claims

13:43:29 1 in both cases. And the reason I say that is, they're both
13:43:32 2 112 issues, but we're not going to be working on what does
13:43:36 3 any claim mean. We're working on whether one claim goes
13:43:40 4 away for indefiniteness, all the claims go away for
13:43:43 5 written description, or, not that this is going to happen,
13:43:47 6 that we lose on both of those.

13:43:49 7 But the point is, what Intel's proposal is
13:43:54 8 designed to do is keep them together, treat them like they
13:43:58 9 are quasi-Markman issues -- because that's what they are.
13:44:02 10 They're not claim construction, but they fall under the
13:44:05 11 112, you know, umbrella, and to do it at a time that's
13:44:11 12 exactly the extension that Flash-Control asked us for at
13:44:17 13 the beginning.

13:44:20 14 And their mantra has been, you should unlink
13:44:26 15 them. I think I've killed that one all I can. I mean,
13:44:29 16 I've bought my wad on that. And they've said the reason
13:44:32 17 they need more time, which we're agreeing to give them, is
13:44:37 18 that they need work with their expert, and yet, no expert
13:44:41 19 has been identified or their testimony summarized.

13:44:46 20 So we're trying to do them a favor in two ways:
13:44:50 21 Give them the time they need for briefing and give them
13:44:54 22 time to either find or get with an expert so that we can
13:44:58 23 work this -- these two issues out together, once and for
13:45:02 24 all, a little bit after the Markman would have been in a
13:45:05 25 shorter hearing. Maybe considerably shorter.

13:45:08 1 THE COURT: And, again, if I were inspired to
13:45:15 2 want to combine the two hearings by pushing it back, it
13:45:26 3 gives the plaintiffs more time to do their briefing.

13:45:29 4 MR. RAVEL: And to disclose their expert and for
13:45:30 5 us to depose theirs, theirs to depose ours. The longer
13:45:33 6 time makes sense for efficiency for everybody.

13:45:38 7 THE COURT: Okay. Let me hear from plaintiff's
13:45:40 8 counsel as to -- I will tell you that now knowing what it
13:45:45 9 is that I would be taking up at the motion for summary
13:45:48 10 judgment, it does make sense to my clerk and I -- and he's
13:45:51 11 way smarter than I am and understands this stuff -- that
13:45:55 12 it would make more sense to do it all at once. That is
13:46:01 13 pretty clear to me. I think what we're arguing over now
13:46:03 14 is when we do that.

13:46:07 15 And for the plaintiff, assuming I maintain the
13:46:17 16 trial date when we have it set, which is on March 8th of
13:46:20 17 2021, how is the plaintiff harmed by me pushing back the
13:46:25 18 date and then, having a combined hearing on both?

13:46:30 19 MR. DAHLGREN: Sure. There's a number of points
13:46:33 20 I want to address, your Honor.

13:46:34 21 THE COURT: Okay.

13:46:35 22 MR. DAHLGREN: But I will first answer your
13:46:37 23 question, and then, I would like to respond to a couple of
13:46:39 24 Mr. Ravel's points that he made.

13:46:40 25 But the harm would be that discovery's stayed

1 until after Markman in this case, so essentially what
2 you're doing is giving them a six-week stay and then,
3 maintain the current trial date or shortening the time for
4 discovery essentially that maybe we could work on the
5 deadlines. But I think that would be a definite harm to
6 plaintiff.

7 THE COURT: Well, let me ask you about that. I
8 certainly understand that. I don't want that to be the
9 result; but the same time, I'm being told by counsel for
10 Intel that the motion for summary judgment has the
11 potential to eliminate the entire case or both patents.

12 I'm not asking you to say he's right, but I do
13 want to know if you agree that if I were to give the
14 defendant all the relief that they're seeking, is that
15 correct that it would take out the two patents?

16 MR. DAHLGREN: My understanding is that they've
17 asserted word descriptions of all the asserted claims.
18 Now, what they've done, your Honor -- I think this goes to
19 whether the efficiency combining this with Markman,
20 they've identified one example of an exemplary claim, but
21 there are a number of other independent claims. There's
22 variations in the language. There are a number of factual
23 issues that underpin written description, what it means to
24 a person of ordinary skill in the art, the level of
25 technology, you know, things along those lines that would

1 also go to the description analysis that wouldn't
2 necessarily be part of the Markman analysis.

3 Now, for Markman, he's identified one term that
4 they allege is indefinite. Even though it's an
5 indefiniteness issue, when you look at claim construction
6 and indefiniteness, you're looking at the scope of the
7 claim, the balance of the claim, word description to the
8 bounds of the specification. So the analysis -- the
9 fundamental analysis in the two, while there is some
10 overlap, it's different. And I think that for, you know,
11 that reason, I think it would be appropriate to not have
12 them combined together.

13 I don't see there really being be much loss of
14 efficiency because there's one very discrete term of one
15 single claim of one patent that they're treating as
16 indefinite. I think that could be decided fairly easily.
17 And there's also one other term -- one limitation they
18 left out of the written description.

19 So I think that if the Court said was indefinite,
20 that would affect the summary judgment briefing and
21 everything. So it might actually make more sense to do
22 them in order, having the Markman first and then, summary
23 judgment: because the Court's ruling on Markman could
24 inform the briefings on summary judgment. That's another
25 reason to defer summary judgment and to have them be

13:49:32 1 separately.

13:49:34 2 You know, just the fact that they're both 112
13:49:36 3 issues on their face, I don't think that that really means
13:49:38 4 there's a lot of efficiency deciding those two together.

13:49:41 5 THE COURT: Okay. Mr. Ravel.

13:49:44 6 MR. RAVEL: Well, first.

13:49:45 7 MR. DAHLGREN: I just want to note that --

13:49:47 8 MR. RAVEL: Oh, okay --

13:49:48 9 MR. DAHLGREN: -- sorry. And one thing, we were
13:49:50 10 a little caught off-guard by the indefiniteness argument.
13:49:53 11 So they served their initial invalidity contentions in
13:49:56 12 December. They did not allege indefiniteness. We pointed
13:49:59 13 this out after we received their disclosure of extrinsic
13:50:02 14 evidence and proposed constructions and said -- you know,
13:50:10 15 we'll have the amended contentions on January 28th.

13:50:12 16 So we were kind of trying to figure out this
13:50:14 17 indefinite issue. We didn't respond about the summary
13:50:17 18 judgment issue until January 29th; and since that time,
13:50:20 19 we've been working with them essentially to try to figure
13:50:23 20 out something that works. But our first position to be
13:50:27 21 clear, our initial solution was that summary judgment
13:50:29 22 should be deferred until the deadline's already scheduled
13:50:32 23 because it's premature at this point.

13:50:34 24 But in the interest of working with them, we said
13:50:36 25 that we would try to come up with some alternative

13:50:38 1 schedule. It's always been that it should be separate
13:50:41 2 from Markman.

13:50:43 3 THE COURT: Mr. Ravel. And let me apologize to
13:50:46 4 plaintiff's counsel. I thought you were done -- when you
13:50:49 5 pause on a conference call, I just assumed you were done.
13:50:51 6 I didn't mean to interrupt you. I apologize.

13:50:53 7 MR. DAHLGREN: Yeah. No, no. It's fine, your
13:50:53 8 Honor.

13:50:56 9 Just the last point I was going to make is, you
13:50:58 10 know, Mr. Ravel said something about not disclosing
13:51:00 11 experts and stuff like that. You know, the Court's order
13:51:04 12 requires that be done for purposes of Markman. Our intent
13:51:06 13 is not use the expert for the indefiniteness issue, but we
13:51:09 14 are most definitely going to be using an expert for
13:51:12 15 dealing with their written description challenge.

13:51:15 16 And we have an expert, we're currently working
13:51:19 17 with that expert in forming our positions and doing
13:51:23 18 everything we can because, right now, we have to respond
13:51:26 19 in under a week, according to the default schedule under
13:51:30 20 your local rules. So we're working there. But I don't
13:51:36 21 think it's required that we disclose that person right now
13:51:39 22 or disclose the summary of their testimony prior to
13:51:41 23 responding to the summary judgment portion of their brief.
13:51:46 24 Minor point. I just wanted to clarify that.

13:51:50 25 MR. RAVEL: Your Honor, about four points. First

1 of all, the proposal we've made has Flash-Control's next
2 pleading due to this court on March 25th. So 10 days plus
3 a month from now. Not next Wednesday.

4 The proposal that we did also kind of simplified
5 the pleadings, and it is subject to Dr. Yi's approval in
6 when we saw we had no traditional constructions, we
7 thought maybe both parties opening, both parties
8 responding, and both parties replying might not be
9 necessary. So we went back to more of a motion response
10 reply, and Dr. Yi gets a vote on whether that gives him
11 enough information timely. So that's one thing.

12 I was listening to Mr. Dahlgren very, very
13 closely, and I think he did a pretty nice job of saying
14 why he might keep us from winning either of these motions,
15 but I didn't hear a really good reason to decouple them.
16 Is there certainly enough linked that they should be
17 coupled. And it seems to me that they are saying it's
18 almost prejudicial for them to be coupled, and we really
19 do disagree with that.

20 I'm looking at the actual schedule, and the
21 Markman that we are saying take your day back, Judge, and
22 give us half a day during the week of May 18th, fact
23 discovery doesn't begin now until two weeks later, April
24 15th. And if the Court is particularly concerned or if
25 the plaintiff is particularly concerned about shortening

13:53:44 1 fact discovery, while we wouldn't be wild about it, Intel
13:53:50 2 is certainly willing for fact discovery to begin when it's
13:53:54 3 scheduled. If the plaintiff is concerned about not having
13:53:56 4 enough time, we don't need to move that date.

13:54:00 5 THE COURT: Yeah. That was something I was going
13:54:03 6 to raise. Well, look, there's no perfect solution here.

13:54:08 7 And so, what I'm going to do -- although I know
13:54:13 8 it will make the plaintiff unhappy, but I don't think
13:54:15 9 there's any prejudice from it -- is we will push back the
13:54:19 10 Markman hearing date of the 1st to -- I'm not sure that
13:54:27 11 that May date works for us.

13:54:27 12 LAW CLERK: We'll have to find a date.

13:54:31 13 THE COURT: We'll have to find a date, but it
13:54:33 14 will be in May.

13:54:34 15 And Mr. Ravel offered and the Court will accept
13:54:41 16 on the plaintiff's behalf that if you all want to -- if
13:54:45 17 either side or both want to begin discovery on the date
13:54:47 18 that it's currently scheduled, I think that's an important
13:54:51 19 part of my decision that neither side be prejudiced by the
13:54:55 20 delay that I'm imposing at this point.

13:55:00 21 And I really am, just for the record but just,
13:55:03 22 also, so plaintiff's counsel understands, I am kind of as
13:55:09 23 a -- more like a parent here, sitting here thinking, you
13:55:14 24 know, what do I do in this situation? It seems to me that
13:55:17 25 everybody, including the Court, benefits by the delay in

13:55:22 1 handling this all at once rather -- maybe just for the
13:55:26 2 Court but I think, actually, for the parties, as well, to
13:55:30 3 have it split up twice and have -- have to have us relearn
13:55:33 4 this stuff twice.

13:55:36 5 So we will postpone the March -- I'm sorry. We
13:55:42 6 will postpone the April 1st date. We will get you a date
13:55:46 7 in May, last half of May, and discovery can begin whenever
13:55:54 8 it's currently scheduled to begin. Also, because I have,
13:56:00 9 sort of late in the game, changed some of the dates, if --
13:56:06 10 I don't usually think plaintiffs want to move trial dates,
13:56:10 11 but if the defendants lose these motions and the plaintiff
13:56:17 12 wants to tell me that they feel like that a trial date of
13:56:22 13 March 8th is now too soon to fully prepare, we will figure
13:56:28 14 out a way to fix that on behalf of the parties, as well.

13:56:31 15 So I want to try and make this move as
13:56:35 16 non-prejudicial as possible to either side and that's, I
13:56:40 17 think the only -- I think I have to have a resolution, and
13:56:42 18 that's the one that provides the least amount of prejudice
13:56:45 19 of the options that I have.

13:56:49 20 So for plaintiff's counsel, did I leave anything
13:56:51 21 out that I should be telling you or deciding?

13:56:55 22 MR. DAHLGREN: No, your Honor.

13:56:56 23 If discovery could be allowed to commence at the
13:56:59 24 date that's currently on the schedule, I don't believe
13:57:02 25 there would be any need to move the trial date.

13:57:04 1 THE COURT: Okay.

13:57:05 2 MR. DAHLGREN: So we'll accept that proposal and
13:57:08 3 I appreciate it. Thank you.

13:57:08 4 THE COURT: Okay. Yeah, Mr. Ravel's very wise.
13:57:11 5 He actually knows me well enough to know that I was going
13:57:15 6 to have some horse trading here and that I was probably
13:57:18 7 going to suggest that that was a way of making this work.
13:57:22 8 So he was wise to suggest it and take credit for it, but I
13:57:25 9 think it's a wise suggestion.

13:57:27 10 So, Mr. Ravel, do you have anything else?

13:57:29 11 MR. RAVEL: Nothing, Judge. Don't want to seem
13:57:31 12 pushy, but if you can get us a date, that will give the
13:57:35 13 parties a real leg up in coming up with an agreed
13:57:38 14 schedule, coming backwards from that date. So that would
13:57:41 15 be real helpful.

13:57:41 16 THE COURT: I'm hopeful that Josh will get you
13:57:43 17 one by Monday.

13:57:46 18 MR. RAVEL: Better service than one could ever
13:57:48 19 ask for, Judge.

13:57:49 20 THE COURT: Well, you asked for it, actually.
13:57:49 21 So.

13:57:52 22 At any rate, we will -- we're a little out of
13:57:56 23 pocket here in Austin. I mean, we have access to the
13:57:59 24 calendar, but this may require us to do a little jiggling
13:58:03 25 with our other clerks to find the space in May to come up

13:58:08 1 with. And I'm going to assume we'll probably have that
13:58:10 2 hearing here in Austin.

13:58:12 3 MR. RAVEL: I think both parties have asked for
13:58:14 4 that, Judge.

13:58:14 5 THE COURT: Okay. That means it will most likely
13:58:16 6 be on a Monday or a Friday for your planning purposes. I
13:58:21 7 can -- if I can figure out a Monday where I'm not starting
13:58:25 8 a trial, that's probably what we'll do. If I can't, then
13:58:28 9 I'll do some work, it will be on a Friday. But Josh and I
13:58:33 10 will work that out and we'll get you something by Monday.

13:58:35 11 Anything else from plaintiff?

13:58:37 12 MR. DAHLGREN: No, your Honor.

13:58:39 13 I think that was a good compromise and I
13:58:43 14 appreciate it and I thank you. And I hope you guys have a
13:58:45 15 great weekend.

13:58:46 16 THE COURT: I hope you have a great weekend, as
13:58:48 17 well, my friend. Have a great day.

13:58:53 18 MR. RAVEL: Nothing further from Intel, Judge.

13:59:09 19 (End of proceedings.)

13:59:09 20

21

22

23

24

25

* * * * *

UNITED STATES DISTRICT COURT)
WESTERN DISTRICT OF TEXAS)

I, LILY I. REZNIK, Certified Realtime Reporter,
Registered Merit Reporter, in my capacity as Official
Court Reporter of the United States District Court,
Western District of Texas, do certify that the foregoing
is a correct transcript from the record of proceedings in
the above-entitled matter.

I certify that the transcript fees and format comply
with those prescribed by the Court and Judicial Conference
of the United States.

WITNESS MY OFFICIAL HAND this the 24th day of February,
2020.

/s/Lily I. Reznik
LILY I. REZNIK, CRR, RMR
Official Court Reporter
United States District Court
Austin Division
501 W. 5th Street,
Suite 4153
Austin, Texas 78701
(512)391-8792
Certification No. 4481
Expires: 1-31-21

LILY I. REZNIK, OFFICIAL COURT REPORTER
U.S. DISTRICT COURT, WESTERN DISTRICT OF TEXAS (AUSTIN)